
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

SHONDA MARTIN,

Plaintiff,

v.

COUNTY OF MILWAUKEE, DAVID
A. CLARKE, JR., XAVIER D.
THICKLEN, and JOHN/JANE DOE,

Defendants.

Case No. 14-CV-200-JPS

SECOND AMENDED JUDGMENT

Decision Following Remand. On June 5, 2017, this action came before the Court, presided over by the Honorable J.P. Stadtmueller, for a trial by jury. The jury rendered a Special Verdict (Docket #259) on June 7, 2017. After considering defendants County of Milwaukee and Sheriff David. A. Clarke, Jr.'s Motion for Partial Summary Judgment (Docket #132) and defendant County of Milwaukee's Motion for Judgment as a Matter of Law, or in the alternative, Motion for a New Trial (Docket #275), the Court issued an Amended Judgment dated September 28, 2017 (Docket #304).

Defendant County of Milwaukee filed a notice of appeal on October 25, 2017 (Docket #306) and an amended notice of appeal on December 18, 2017 (Docket #325).

On December 20, 2018, this Court received a mandate from the Seventh Circuit Court of Appeals in *Shonda Martin v. Milwaukee County*, Nos. 17-3216 & 18-1060 (Sept. 14, 2018), 904 F.3d 544 (7th Cir. 2018), reversing and vacating the judgment against defendant County of Milwaukee for indemnification and remanding with instructions that this Court enter judgment in favor of the County on that claim.

In accordance with the mandate of the Court of Appeals, this Court issues a Second Amended Judgment as follows:

IT IS ORDERED AND ADJUDGED that the plaintiff Shonda Martin shall have and recover the amount of **\$1,700,000.00** from defendant Xavier D. Thicklen on the plaintiff's claim that he violated the plaintiff's right to bodily integrity by causing the plaintiff to engage in unwanted sexual acts, in violation of the Due Process Clause of the 14th Amendment (Docket #259);

IT IS FURTHER ORDERED AND ADJUDGED that defendant Xavier D. Thicklen's conduct was malicious or in reckless disregard of the plaintiff Shonda Martin's rights and that the amount of **\$5,000,000.00** (\$1,000,000.00 per incident) be awarded against defendant Xavier D. Thicklen as punitive damages (Docket #259);

IT IS FURTHER ORDERED AND ADJUDGED that the use of restraints on the plaintiff Shonda Martin during her labor, delivery, and post-partum care at the hospital was not rationally related to a legitimate non-punitive governmental interest or was excessive in relation to that interest, in violation of the Due Process Clause of the 14th Amendment (Docket #259);

IT IS FURTHER ORDERED AND ADJUDGED that the application of defendant County of Milwaukee's restraint policy and use of restraints during the plaintiff Shonda Martin's labor, delivery, and post-partum care at the hospital did not cause the plaintiff harm (Docket #259);

IT IS FURTHER ORDERED AND ADJUDGED that defendants County of Milwaukee and Sheriff David A. Clarke, Jr.'s Motion for Partial Summary Judgment (Docket #132) be and the same is hereby **GRANTED in part and DENIED in part** (Docket #157);

IT IS FURTHER ORDERED AND ADJUDGED that the plaintiff Shonda Martin's *Monell* claims arising from Counts One and Three of the Amended Complaint be and the same are hereby **DISMISSED** (Docket #157);

IT IS FURTHER ORDERED AND ADJUDGED that defendant County of Milwaukee's Motion for Judgment as a Matter of Law (Docket #275) be and the same is hereby **GRANTED** insofar as defendant County of Milwaukee is entitled to judgment as a matter of law on Count Four (Indemnification) of the Amended Complaint;

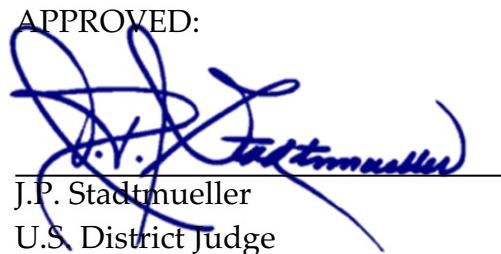
IT IS FURTHER ORDERED AND ADJUDGED that defendant Xavier D. Thicklen was not acting within the scope of his employment for defendant County of Milwaukee when he violated the plaintiff Shonda Martin's constitutional rights;

IT IS FURTHER ORDERED AND ADJUDGED that the plaintiff Shonda Martin shall have and recover nothing from defendant County of Milwaukee on the plaintiff's indemnification claim pursuant to Wisconsin Statutes § 895.46;

IT IS FURTHER ORDERED AND ADJUDGED that the plaintiff Shonda Martin's claim for a class action with respect to defendant County of Milwaukee's restraint policy for prisoners during their labor, delivery, and post-partum care be and the same is hereby **DISMISSED** (Docket 294); and

IT IS FURTHER ORDERED AND ADJUDGED that Sheriff David A. Clarke, Jr. and John/Jane Doe be and the same are hereby **DISMISSED** as defendants in this action (Docket #294).

APPROVED:



J.P. Stadtmauer
U.S. District Judge

STEPHEN C. DRIES
Clerk of Court
s/ Jodi L. Malek

By: Deputy Clerk

March 5, 2019

Date